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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/766,616	01/27/2004	Robert Moser	MOSEB04/02	3379

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JOSEPH T. REGARD, LTD PLC
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MADISONVILLE, LA 70447-0429

EXAMINER

NELSON, JAMES T

ART UNIT PAPER NUMBER

3637

DATE MAILED: 12/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/766,616	Applicant(s) MOSER ET AL.	
	Examiner James T. Nelson	Art Unit 3637	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
 4a) Of the above claim(s) 6 and 7 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>10/02/2001</u> . | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Election/Restrictions

1. Applicant's election of claims 1-5 in the reply filed on 28 December 2004 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)). Claims 6 and 7 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected bin dumping system, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 28 December 2004.

Claim Objections

2. Claim 1 is objected to because of the following informalities: The phrase "a floor joining having upper and lower surfaces" on line 10 is grammatically incorrect.
3. Claim 3 is objected to because of the following informalities: The phrase "wherein there a is further provided a template" on line 21 is grammatically incorrect; claim 3 does not end with a period. It is unclear whether or not the claim is complete.
4. Appropriate correction of claims 1 and 3 is required.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
6. Claims 1-5 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

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7. It is unclear if the applicant intended to claim a combination including “first and second forks from a forklift” since “a support surface” is claimed in combination with the “first and second forks from a forklift.” Such “first and second forks from a forklift” not being positively claimed renders the claim indefinite. Clarification is required.
8. It is unclear if the applicant intended to claim a combination including “the bin holding area of an underlying cargo bin” since the “skids” are claimed in combination with the “the bin holding area of an underlying cargo bin.” Such “bin holding area of an underlying cargo bin” not being positively claimed renders the claim indefinite. Clarification is required.

Claim Rejections - 35 USC § 102

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

10. Claims 1 and 2 are rejected under 35 U.S.C. 102(b) as being anticipated by Heft (U.S. Patent 3,648,877)
11. Regarding claim 1: In Figs. 1 and 3, Heft shows a stackable cargo bin (10), comprising: first and second vertical walls (14, 15) each having first and second ends joined by first and second end walls (12, 13), respectively, a floor (16) having upper and lower surfaces (22, 21) joining said first and second vertical walls (14, 15) and said first and second end walls (12, 13) to form a bin holding area (10) having an upper edge (50, 52), a length, and a width; first and second skids (17, 18) engaged to said lower surface (21) of said floor (16), said skids (17, 18) formed to space said lower surface (21) of said floor (16) from a support surface, and to allow first and second forks from a forklift to pass there between, each of said skids

having first and second ends and a length, said length of said skids configured to rest within the bin holding area of an underlying cargo bin when stacked thereupon such that said ends of said skids interface with the upper edges of an underlying cargo bin when stacked thereupon, so as to resist sliding or tilting. On line 5, of column 2, Heft discloses that his invention is "capable of being stacked in a locked position to prevent tipping and sliding thereof."

12. Regarding claim 2: In Figs. 1 and 3, Heft shows the stackable cargo bin of claim 1, wherein a storage area is formed between said first and second vertical walls (14, 15), said first and second end walls (12, 13), and said floor (16).

Claim Rejections - 35 USC § 103

13. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

14. Claims 3-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Heft (U.S. Patent 3,648,877), as applied to claims 1 and 2 above, in view of Frazier (U.S. Patent 129,545).
15. Regarding claim 3: In Figs. 1 and 3, Heft shows the stackable cargo bin of claim 2, but lacks a template formed to engage the cargo bin to convert same into a specialized carrier comprising a base configured to engage said floor, the base supporting a rack engaging and supporting an item in a contained and secure fashion. In Figs. 1 and 3, Frazier teaches a template (B) to convert a bin into a specialized carrier comprising a base (B) configured to engage a floor, the base (B) supporting a rack (x) engaging and supporting an item (3) in a

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contained and secure fashion. It would have been obvious to one skilled in the art at the time of invention to place the template and rack of Frazier within the bin of Heft to engage and support one or more items.

16. Regarding claim 4: In Figs. 1 and 3, Heft shows the stackable cargo bin of claim 2, including said first and second vertical walls (14, 15) and said first and second end walls (12, 13) having an upper edge (50, 52), but lacks an upper template comprising a series of sleeve members having peripheries, said sleeve members joined at said peripheries along a common plane and framed by frame, said frame engaging said upper edge. In Fig. 1 and 3, Frazier teaches an upper template (G) comprising a series of sleeve members (5) having peripheries (6), said sleeve members (5) joined at said peripheries (6) along a common plane and framed by frame (a, b). It would have been obvious to one skilled in the art at the time of invention to place frame and template of Frazier on the upper edge of Heft within the bin of Heft to engage and support one or more items.

17. Regarding claim 5: Heft, as modified by Frazier, shows the stackable cargo bin of claim 4.

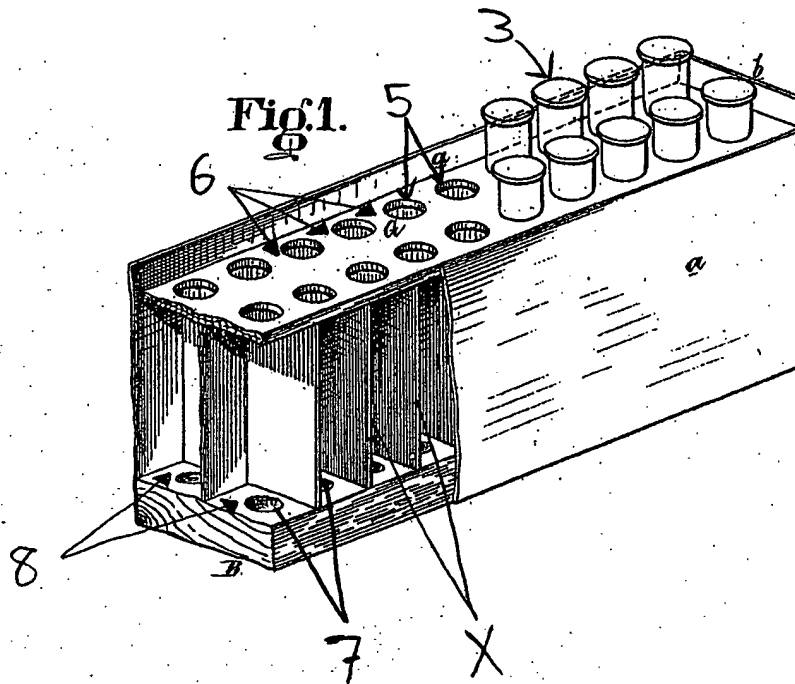
In Figs. 1 and 3, Frazier also teaches a base component (B) comprising a plurality of sleeve members (7) having peripheries (8) aligned on a plane, said sleeve members (7) joined at said peripheries (8) and situated in axial alignment with said sleeve members (5) of said upper template (G), so as to facilitate the engagement and support of items through the aligned sleeve members forming the upper template and the base component, so as to facilitate secure storage and transport. It would have been obvious to one skilled in the art at the time of invention to incorporate the base features of Frazier into the bin of Heft to further engage and support items placed in the bin.

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No. 129,545.

J. W. FRAZIER

Patented July 16, 1872.



Conclusion

18. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Davis, Magehans, Mancha, Morio, Porter, Barnes, Booth, Karsikas, Harrington, Shuert '252, Shuert '451, Rose, Simkowski, Sencenbaugh '645, Budd, Tatko, Phillips, Bamburg, Shieh, Teixeira, Delany, Shuert '731, Avery, Boonstra, Darby, Mathis, Tulay, Schmidt, Farrar, Dunham, Wind, Shuert '830, Flum '024, Shuert '460, Austin, Gangloff, Cassina, Sukeva, Sencenbaugh '646, Merker, Hawkins, Archibald, Ladd, Munroe, Martin, Bruni, Flum '651, Stegman, and Shuert '875 all show aspects of the current invention.
19. Any inquiry concerning this communication or earlier communications from the examiner should be directed to James T. Nelson whose telephone number is (571) 272-1491. The examiner can normally be reached M-F 9:00am - 5:30pm.

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20. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on (571) 272-6867. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.
21. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JTN

11/28/2005

LANNA MAI
SUPERVISORY PATENT EXAMINER
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